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MILA KOFMAN
SUPERINTENDENT

March 14, 2008

The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Congressman Dingell:

I applaud your efforts to address Americans' need for access to coverage for their mental and behavioral health care needs, especially for the many citizens who are covered by plans exempt from state regulation. The passage of the Paul Wellstone Mental Health and Addiction Equity Act of 2008 (Wellstone Parity Act) on March 5, 2008 by the U.S. House of Representatives is an important step.

Many states have similar requirements in place, in many cases exceeding the proposed nationwide minimum standards. Maine has extensive protections. In Maine, insurers selling health insurance to businesses with more than 20 employees must cover eleven broad categories on the behavioral health spectrum. This includes substance abuse-related disorders. The statute defines these by reference to DSM-IV. The eleven broad categories must be covered with full parity.

Insurers selling to businesses with 20 or fewer workers or individual coverage must offer mental health coverage benefits. This includes full parity for seven specified illnesses.

Unlike the federal legislation that would allow a 1% cost exemption, Maine's law applicable to large group, small group, and individual health insurance coverage does not include a cost exemption. The state's policymakers have determined that coverage for mental and physical illness is equally important.

In response to your inquiry about preemption and whether the House bill would have a negative effect on our existing consumer protections, I have discussed the issue with our legal staff, and believe that the Wellstone Parity Act would protect the State's mental health and substance abuse coverage laws. There are two key preemption provisions in the bill – one in the section amending the Employee Retirement Income Security Act of 1974 (ERISA) and one in the section amending the Public Health Service Act (PHSA).

Both standards would reflect a "federal floor" approach, preserving state laws providing greater consumer protection. I urge you, however, to make the two standards consistent.



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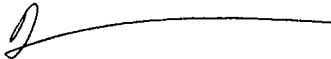
Under the proposed standards, Maine's requirement that insurers cover a range of conditions as specified in DSM-IV would be preserved even though the state law does not require all conditions listed in DSM-IV to be covered. The state standards exceed the federal minimum standards in other respects, in part because the state law requires mental health coverage while the federal law would apply only if a plan chose to cover mental health.

Under the federal bill, insurers selling coverage to businesses with more than 50 employees would be required to ensure that their coverage complies with federal as well as state requirements. In light of the federal standard, state policymakers may modify the state law to require the expanded DSM coverage.

I hope this is helpful and I look forward to working with you on this and other areas of reform. If we can be of further assistance, please contact me directly at 207-624-8550 or Bob Wake, my Legislative Counsel, at 207-624-8430.

Thank you for the opportunity to provide assistance on this very important public policy matter.

Very truly yours,

A handwritten signature in dark ink, appearing to be 'Mila Kofman', with a long horizontal line extending to the right.

Mila Kofman

CC: Congressman Thomas H. Allen
Congressman Michael H. Michaud